Filed 4/16/19 In re H.G. CA6

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re H.G. et al., Persons Coming Under the Juvenile Court Law.	H045730 (Santa Clara County Super. Ct. Nos. JD024885, JD023784)
SANTA CLARA COUNTY DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES, Plaintiff and Respondent, v. C.G. et al., Defendant and Appellant.	

C.G. (mother) and T.G. (father) are the parents of seven-year-old I.G. (born November 2011) and one-year-old H.G. (born November 2017).[1] The parents appeal from the dispositional order removing H.G. from their care.[2] The father also appeals

[1] This court has taken judicial notice of the record filed in case Nos. H044946 and H045337.

[2] The parents filed notices of appeal on April 10, 2018, and refer to an order dated February 26, 2018. However, the dispositional order was entered on March 1, 2018. We will liberally construe the notice of appeal to include the dispositional order. (Cal. Rules of Court, rule 8.405.)

from the order declaring H.G. a dependent of the court.[3] They challenge the sufficiency of the evidence to support the orders. We affirm.

I. Procedural and Factual Background

A. Jurisdiction Petitions

On November 30, 2017, the Santa Clara County Department of Family and Children's Services (Department) filed a petition alleging that six-day-old H.G. came within the provisions of Welfare and Institutions Code section 300, subdivision (b)[4] [failure to protect]. The petition alleged that H.G. had suffered or was at substantial risk of suffering serious physical harm in the parents' care. It alleged: the mother's untreated mental health issues interfered with her ability to safely parent H.G. and the father minimized the mother's risk to H.G.; the parents repeatedly failed to attend to the child's basic needs; the parents resisted the efforts of hospital staff to coach them to safely care for H.G.; and H.G.'s sibling I.G. had been declared a dependent of the court and remained in foster care.

In December 2017, the petition was amended to include an allegation of abuse of sibling pursuant to section 300, subdivision (j).

B. Jurisdictional/Dispositional Report

The jurisdictional/dispositional report, dated December 20, 2017, recommended that the first amended petition be sustained and that the parents be offered reunification services.

The report summarized the family's extensive prior child welfare history involving I.G. In November 2011, the mother was "'actively psychotic'" when she gave birth to

[3] The parents appealed from the order following the six-month review hearing relating to I.G. However, neither parent has presented any issues as to this child.

[4] All further statutory references are to the Welfare and Institutions Code.

I.G. The parents agreed to and participated in voluntary services. The father also agreed that he would not leave the mother alone with I.G.

In February 2013, the parents were arguing on a street about a quarter of a mile from their home. When police officers learned that they had left 16-month-old I.G. alone at home, they went to the home and found her near a heater and hazardous materials. In June 2013, I.G. was declared a dependent of the juvenile court and returned to the parents with family maintenance services. After the parents completed their case plan, the juvenile court dismissed the case in February 2014.

In January 2016, general neglect was alleged. There was rotting food and human waste throughout the home. The conditions of the home were hazardous to I.G.'s health and safety. In February 2016, general neglect was alleged on three occasions. On February 29, 2016, the Department received a referral after I.G. was found wandering alone in the street. When the mother was contacted, she did not know that I.G. was missing and would not claim her. The home was "dirty with unsafe surroundings." In June 2016, I.G. was declared a dependent of the court and family maintenance services were ordered.

In June 2017, I.G. was placed into protective custody due to the mother 's untreated and severe mental health issues, the father's minimization of the risks that the mother's behaviors posed to I.G., and the father's neglect of I.G.'s emotional and developmental needs. The mother had been placed on a section 5150 psychiatric hold, which was expanded to a 14-day hold under section 5250.[5] Though the medical staff told the father that the mother was unable to care for herself, he was willing to have her

[5] Section 5150 authorizes an involuntary 72-hour detention of a person who "as a result of a mental health disorder, is a danger to others, or to himself or herself, or [is] gravely disabled." (§ 5150, subd. (a).) After 72 hours, the individual may be certified for up to 14 additional days of intensive treatment if he or she is still gravely disabled or dangerous. (§ 5250.)

discharged and believed that I.G. could be safely left in her care. In August 2017, the juvenile court sustained a section 387 petition removing I.G. from the parents' physical custody. At that time, I.G. experienced anxiety, exhibited bizarre behavior, was not toilet-trained at age five, and had a speech delay.

The report summarized the evidence supporting the allegations of the section 300 petition involving H.G. Hospital staff reported that the mother had not been feeding H.G. or changing her diapers and did not appear to be bonding with her. At one point H.G. was "cold and unswaddled with low body temperatures." The parents slept while H.G. cried in her crib. A pediatric nurse reported that she had observed the father "'pick up the infant by the neck and dangling her before she intervened.'" The mother appeared "'disconnected'" and directed the father to meet H.G.'s needs. The hospital room was "'unkempt as mother drops the dirty diapers on the floor, drops her post natal pads on the floor allowing blood to spill onto the sheets and bedding.'" When the mother was pumping breast milk, she allowed the milk to drip on the floor, thereby losing most of it. According to the nurse, the parents "'appear[ed] to be unable to be redirected or follow through on coaching advice'" even though she made every attempt to redirect their behavior.

When the social worker met with the parents at the hospital, they immediately began complaining that their previous social worker had been "'harassing them and had not signed them up for parenting classes.'" The social worker observed that the parents had difficulty picking up and holding H.G. Nursing staff constantly intervened and redirected the parents on how to care for H.G.

On November 28, 2017, H.G. was placed into protective custody. The social worker informed the parents that she was being removed from their care and explained that the exigency was due to concerns for H.G.'s safety and that they were a "flight risk."

The following day, the social worker spoke to the father, who indicated that he would not discuss the case with her and they were only interested in visiting H.G. The father, an attorney, asserted that "they did not have any problems" and that they had "'a safety plan.'" He was "confrontational and verbally aggressive" towards the social worker, though she tried to redirect him to talking about the case. He indicated "several times that he is going to be suing everyone involved and the Department."

In mid-December 2017, the social worker asked the parents to be interviewed separately, but they refused. They explained that they had little sleep during the four days in the hospital prior to H.G.'s birth. The father stated that all the allegations against them were "'lies.'"

The report discussed the mother's hospitalization in June 2017. At that time, her psychiatrist, Dr. Gillian Friedman, diagnosed her with bipolar disorder, mixed episode with psychotic features and stated that she was unable to care either for herself or a child. The psychiatrist also noted that the mother improved with medication.

The social worker included a psychiatric diagnostic evaluation and report, dated August 5, 2017, by Dr. Masaru Fisher. According to Dr. Fisher, the mother did not meet the criteria for a diagnosis of either schizophrenia or bipolar disorder. He diagnosed her with attention deficit/hyperactivity disorder (ADHD), adjustment disorder, and anxiety disorder. He stated that "'when under severe stress [the mother] can become overwhelmed to the point that she cannot take care of herself or her daughter and needs to be in the hospital.'" He also concluded that "[a]t present, due to her positive response to recent mental health treatment, there are no overt impairments in her ability to provide safe and appropriate parenting to her daughter, but this is tenuous." Dr. Fisher recommended monthly psychiatric appointments to evaluate her medications and therapy every two to four weeks.

Dr. Fisher also provided the social worker with a letter, dated September 14, 2017, in which he stated that the mother "currently presents with ongoing mild anxiety and likely soft signs from untreated ADHD." He noted that the mother was searching for a therapist. In mid-December, Dr. Fisher informed the social worker that his diagnoses from his August 2017 report were unchanged. He further stated: "'Other diagnosis from 2013 are not up-to-date. Although there may be other symptoms present, they do not represent any other disorder nor diagnosis that mandates current medicine treatment. These statements only reflect my mental health diagnostic opinion. I do not and cannot comment on her parenting skills or capacity beyond my opinion that she desires to be a safe, loving and caring mother.'"

The social worker interviewed the parents in mid-December 2017. They indicated that they want H.G. returned to their care, because the mother did not have mental health issues. The father stated that he was not minimizing the mother's behavior, offered to have a safety plan in place by hiring a nanny, and would not leave the mother alone with H.G. According to the father, Dr. Friedman had indicated that I.G. could be left alone with the mother. The father claimed that "'all the allegations are not true.'"

The social worker summarized the parents' participation in family reunification services in connection with I.G.'s case. After five referrals to parenting classes, they had attended five of six sessions. The mother had participated in individual therapy with Dr. Fisher on two occasions. He indicated that it was a conflict of interest for her to receive therapy from him, because she was seeing him for medication management. The mother reported that she was seeing Whitley Lassen. However, Lassen indicated that the mother had last seen her in August 2016. The mother had completed her evaluation with Dr. Fisher. The parents had not participated in couples counseling. The father had not provided verification that he was receiving therapy. He was dropped from the Parenting

without Violence program when he missed two consecutive classes and he had not completed a psychiatric evaluation.

The report indicated that the parents had "strained relationships" with their families and received little or no support from them.

The juvenile court had ordered supervised visitation with H.G. twice a week for one hour, "some separate and some together." The parents were currently visiting the children once per week for two hours. They were appropriate during visits, but declined to visit separately. They explained that they were married and should not have to visit separately.

The social worker concluded that the mother had unaddressed mental health issues and since the father continued to minimize her symptoms, it would be unsafe for H.G. to return to their care. She noted that the mother had "not consistently engaged in mental health services to address hygiene, self-care, motivation, parenting, and how to be stable with her mental health without psychiatric medication." The social worker acknowledged that the parents loved H.G. and were willing to engage in services. However, she also pointed out that, with the exception of their parent orientation, the parents had failed to complete any of the other services in their current case plan with I.G. The social worker was concerned that "this exact situation of unaddressed mental health and the consistent minimizing of mental illness keeps repeating itself." She observed that the father "does a lot of blaming rather than having insight to the dynamic of his relationship with his wife" and "could also benefit from a mental health evaluation to address co-dependency and being an enabler to [the mother]. Finding a nanny is helpful but it is not a solution to the underlying issues of the parents' mental health issues."

C. Addendum Report

The addendum report, dated January 10, 2018, recommended that the first amended petition be sustained and the parents be offered family reunification services. The social worker stated that the parents were visiting both H.G. and I.G. together twice a week for two hours. They continued to be affectionate with them. However, since the parents refused to visit H.G. separately, the Department was unable to assess each parent's parenting skills and capacity to bond. During one of the visits, the social worker instructed the father how to hold H.G. by supporting her neck with an open hand rather than his thumb and index finger. The parents continued to need "a lot of redirecting and coaching when handling [H.G.] in regards to her feedings, diaper changes, and overall handling." There were also concerns that H.G.'s clothes were soaked in urine and she was wrapped in a blanket that was covered with feces when she was returned to her placement.

The social worker reported the observations of the supervising social worker regarding the parents' visit with H.G. on January 3, 2018. The mother had "'a flat [a]ffect, slurred speech, bad odor, and inability to stay focused.'" She also "'could not follow directions correctly and she did not make any sense when she spoke.'" Though the mother had displayed some of these behaviors during past visits, her behavior during this visit was "'extreme.'" The mother asked the father several times to help her with H.G. while H.G. was sleeping in her arms. At one point, she asked the father, "'What do you want the baby to die?'" He responded that the baby was not going to die. The mother also commented, "'[Y]ea . . . crying in the street last night.'" The father ignored the comment. Two days later, the father visited by himself and acknowledged that if the mother exhibited these behaviors again, the visit would end.

According to the social worker, the mother indicated that she would start individual therapy with Sallie Danenberg on January 9, 2018. The parents were waiting

for funding to begin their individual and couples counseling with Danenberg. The Department recommended that the parents have separate therapists and a separate therapist for couples counseling.

Noting that the parents had provided a safety plan in December 2017, the social worker stated that it could be considered in the near future but concluded that it was insufficient to ensure H.G.'s safety in the home. According to the social worker, the parents had not been able to recognize the mother's untreated mental illness, had not engaged consistently in their case plan, and need constant redirecting on the proper care of H.G. during visits.

D. Jurisdictional Hearing

On January 26, 2018, the jurisdictional hearing was held. The parties agreed to amendments to the first amended petition. With these amendments, the petition alleged in part: "[T]he mother has a severe mental illness that negatively impacts her ability to parent the child. The mother has been diagnosed with depression, anxiety, and bi-polar disorder with mixed episodes. The mother experiences escalating mood swings, delusions, and paranoia. She continues to deny mental illness and has failed to participate in any mental-health related services. . . . The mother's inability to appropriately manage her severe mental illness and her continual unpredictable and neglectful behaviors places the newborn at substantial risk of harm." It was also alleged that "the father minimizes the risk that the mother's behavior poses to the infant." The petition further alleged that "in the days following the child's birth, the parents struggled with providing care for the infant and meeting her basic needs. . . . [¶] Medical staff expressed strong concerns that if the infant were discharged from the hospital into the parents' care, she would be at risk of serious harm or that injury would occur to the infant."

The father submitted on the issue of jurisdiction based on the social worker's reports while the mother submitted on the petition as amended. The juvenile court found that the allegations of the first amended petition as amended that day were true and declared H.G. a dependent of the court.

E. Addendum Report

The addendum report, dated February 27, 2018, recommended that the parents be offered family reunification services. The Department had still not been able to assess the parenting skills of each parent. During a visit at the end of January 2018, the parents gave H.G. water in a bottle after they had given her formula because she was "'starving.'" As a result, H.G. had diarrhea over the next few days since the parents were unaware that an infant under six months should not be given water. The parents continued to struggle with following directions during visits.

The parents also repeatedly claimed that H.G. had suffered abuse. They were concerned about an injured foot, which was actually a birthmark. They "insist[ed]" that she was "'starving'" and were given medical documentation that she was gaining a healthy amount of weight and thriving. They indicated that she was suffering respiratory distress and asthma, but physicians confirmed that she did not suffer from these ailments. The parents claimed that she suffered a traumatic head injury, but it was later confirmed that there was no such injury. It appeared to the social worker that the parents were trying to sabotage H.G.'s placement.

Regarding the mother's participation in her service plan, the social worker reported that the mother had completed the parent orientation, the parenting class, and the medical evaluation. She began her therapy with Danenberg on January 27, 2018. On February 21, 2018, Danenberg indicated that the mother had completed three sessions with her. When the mother attended her last session on February 10, 2018, she revoked

her authorization for the release of information. Prior to the revocation, Danenberg had informed the Department that "'it was evident that the mother has major mental health issues and that she denied all the allegations against her regarding her dependency case due to believing that they were lies.'" Danenberg also indicated that there "could be a high level of domestic violence in the family [because the mother] informed her that 'she would not disclose her husband's domestic violence behaviors because of the dependency case . . . .'" In mid-December 2018, the mother was given a list of therapists for couples counseling, but she had not provided the social worker with documentation of participation in this service.

Regarding the father's participation in his service plan, the social worker reported that he had completed the parent orientation. The Department approved funding for the father to start individual therapy with Brian Salinas. However, on February 21, 2018, Salinas indicated that the father had not attended two scheduled appointments. On February 22, 2018, the father indicated that he was scheduled to start individual therapy with George Lopez the following week. However, the social worker received a voicemail from Lopez on the same day in which he stated that the father did not have an appointment scheduled with him. After the father was dropped from the Parenting Without Violence program, the social worker re-referred him to the program, which was scheduled to begin the following month. The father completed a psychological evaluation conducted by Dr. Gerard Chambers. Dr. Chambers indicated that "due to 'diagnostic ambiguity, it is difficult to assign [] mental health treatment needs.'" He also stated that the father could have "'underperformed during the testing'" because he was at the hospital the previous night and had not received adequate sleep. Dr. Chambers recommended: the father be referred for a neuropsychological evaluation; couples therapy; and development by the father of a written action plan. The father was given a provisional diagnosis of unspecified neurocognitive disorder. The father informed the

social worker that he was opposed to any further evaluations and that he "wanted the psychological evaluation revoked."

F. Dispositional Hearing

The dispositional hearing was held on March 1, 2018. The jurisdictional/dispositional and addendum reports were admitted into evidence. Marisela Duenas, the assigned social worker, testified as an expert in risk assessment. The parents proposed hiring a nanny as part of their safety plan. She acknowledged that having a nanny would be helpful, but it would be inadequate protection for H.G. She explained that the parents could not "depend on someone else for [H.G.'s] care at all times." Though the mother had completed a parenting class, was participating in therapy, and saw a psychiatrist monthly, she continued to need constant redirection and coaching on how to care for H.G. during supervised visits. Duenas had received complaints from the foster parents on many occasions about H.G.'s condition when she returned from supervised visits. H.G. smelled like urine, was wrapped in a blanket with feces on it, and wore clothing that was inappropriate for the weather.

The father testified that he had gotten little sleep during the three to four days after H.G.'s birth. He did not remember an incident involving feces on her blanket, but he denied that H.G. returned to her placement with urine on her clothing. He never brought clothing to the visits and dressed her in clothing that the foster parents had provided. The father believed that he benefited greatly from the parenting class and felt that he had the skills to parent an infant. According to the father, the mother's current diagnosis was anxiety disorder and attention deficit disorder. He denied that the mother had been diagnosed with bipolar disorder or suffered from escalating mood swings, delusions, or paranoia. He dismissed her past diagnoses by claiming that "[t]hey're really just

guessing." He did not believe that the mother suffered from a mental illness that impaired her ability to safely parent H.G.

The father thought that the mother's mental health had posed a safety risk in the past. He felt that he was currently better at determining if the mother was having an "episode" during which she was confused or overly upset or overwhelmed. He did not think that she became "delusional and like there's a green elephant in the room" when she had an episode. He admitted that he had previously overlooked her symptoms, but asserted that if he currently saw those symptoms he would be a "fool" to ignore them. He "would probably hire a nanny to be with [the mother]" when he was not home. After the nanny was hired, he would explain the mother's condition to her. According to the father, the nanny "would mostly be doing nothing. [The mother] would probably be taking care of the baby under her watchful eye." He would instruct the nanny to take the baby to the grandmother's house if the mother posed a risk to her safety.

The mother testified that she continued to see Dr. Fisher and he did not think that she needed to be on any medication. She and the father had presented the social worker with a safety plan that included hiring a nanny. This individual would "help supervise in case of any sort of incident." Though the nanny had been hired, she was not aware of the mother's mental health issues. She had agreed to start that evening and the mother was planning to tell her about her mental illness at that time.

The mother denied that they slept while H.G. cried in the hospital or that H.G. ever had feces or urine when she returned to the foster parents. She believed the nurses lied in the medical records. The mother claimed that the information in the sustained petition was false, and that she had no mental illness that impaired her ability to safely parent H.G.

Following argument, the juvenile court stated: "[I]t's clear that [the father has] learned some things and he's thinking about these things, and I appreciate that. But I also

think that we've got a ways to go here." The court was concerned that the parents had not discussed the mother's mental health history with the prospective nanny. The court also noted that the parents had not yet "internaliz[ed] what they're learning. There is clearly evidence of redirection still. There's some denial of facts. There's just no reason to deny those facts. There's a need for couple[s] counseling." The court concluded that H.G. could not be safely maintained in the family home and found by clear and convincing evidence that her physical custody had to be taken from the parents. The court also found that there had been reasonable efforts to prevent removal of H.G. from her parents' care and ordered reunification services.

II. Discussion

A. Jurisdictional Findings

The father contends that there was insufficient evidence for the juvenile court to assert jurisdiction over H.G.[6]

Dependency jurisdiction is proper under section 300, subdivision (b) if "there is a substantial risk that the child will suffer[] serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child." "The court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child. [Citations.]" (*N.M.*, *supra*, 197 Cal.App.4th at p. 165.) A parent's "'[p]ast conduct may be probative of current

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[6] The Department argues that the father forfeited any challenge to jurisdiction by entering into a negotiated settlement. We disagree. Though the father agreed to amendments to the first amended petition, the father did not enter into a negotiated settlement or agreement. Counsel for the father stated, "My client is submitting on the issue of jurisdiction. He's submitting that issue to the Court based on the social worker's reports and I have supplied a waiver form." Submission on the social worker's reports at the jurisdiction hearing does not forfeit a claim of sufficiency of the evidence. (See *In re N.M.* (2011) 197 Cal.App.4th 159, 167 (*N.M.*).)

conditions' if there is reason to believe that the conduct will continue." (*In re S.O.* (2002) 103 Cal.App.4th 453, 461.)

"Section 300 jurisdiction hearings require a preponderance of the evidence as the standard of proof. (§ 355, subd. (a).) In reviewing the sufficiency of the evidence on appeal, we look to the entire record for substantial evidence to support the findings of the juvenile court. We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence, or determine where the weight of the evidence lies. Instead, we draw all reasonable inferences in support of the findings, view the record in the light most favorable to the juvenile court's order and affirm the order even if there is other evidence supporting a contrary finding. [Citations.] The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the order. [Citations.]" (*In re A.M.* (2010) 187 Cal.App.4th 1380, 1387-1388 (*A.M.*).)

The father argues that there was no substantial evidence to support the finding that the mother suffered from a severe mental illness and that her condition caused harm or substantial risk of harm to H.G. He argues that the "Department relied on outdated and inaccurate reports from May-June, 2017" and did not account for Dr. Fisher's conclusion that the mother did not have a serious mental disorder. He also points out that she met monthly with Dr. Fisher.

Though Dr. Fisher diagnosed the mother with ADHD, adjustment disorder, and anxiety disorder, this court draws "all reasonable inferences in support of the findings." (*A.M., supra,* 187 Cal.App.4th at pp. 1387-1388.) As this court explained in its unpublished opinion in which we affirmed the removal of I.G. from the parents' custody, "the parents overlook evidence of the mother's mental health history and the father's history of leaving I.G. alone in the mother's care when the mother was clearly unable to care for her. Though the mother had been diagnosed with depression, anxiety, and bipolar disorder with mixed episodes and experienced mood swings, delusions, and

paranoia, she denied the severity of her mental illness and its effect on I.G. She was psychotic when I.G. was born and hospitalized on at least three occasions." (*In re I.G.* (Oct. 19, 2018, H044946, H045169) [nonpub. opn.].) In the present case, the mother continued to exhibit symptoms of serious mental illness that negatively impacted her ability to care for H.G. while she was in the hospital and during supervised visits. Danenberg, the mother's therapist, also concluded that the mother had "'major mental health issues.'" Moreover, three months before H.G. was born, Dr. Fisher conceded that "'when under severe stress [the mother] can become overwhelmed to the point that she cannot take care of herself or her daughter and needs to be in the hospital.'" A month after H.G.'s birth, Dr. Fisher stated that he could not comment on the mother's parenting skills or her capacity to parent H.G. Thus, there was substantial evidence to support the finding that there was a substantial risk of serious physical harm to H.G. as a result of the mother's severe mental illness.

The father next argues that he was not creating a risk to H.G. by minimizing the severity of the mother's mental health condition. He points out that he had assured the social worker that he would not leave the mother alone with H.G. and he would hire a nanny whenever he was not present with the mother and H.G. The juvenile court did not credit this evidence, and this court does not determine the credibility of witnesses. (*A.M.*, *supra*, 187 Cal.App.4th at pp. 1387-1388.) The father has consistently denied the severity of the mother's mental health issues and, as previously stated, he had a history of leaving I.G. alone with the mother when she was not capable of caring for her. As an infant, H.G. was even more vulnerable in the mother's care than her older sister. Thus, there was substantial evidence to support the finding that the father minimized the risk that the mother's behavior posed to H.G.

The father also argues that the nurse's observations of their parenting skills at the hospital were not indicative of a risk of substantial harm to H.G. He claims that neither

he nor the mother remembered when H.G. was left unswaddled and cold or that they slept for 20 minutes while she cried. In any event, he claims that "these are not uncommon events" for parents in their circumstances. He denied that he picked up H.G. by the neck. The nurse's observations refute the father's claims. In addition, the nurse reported that the parents "'appear[ed] to be unable to be redirected or follow through on coaching advice'" even though she made every attempt to redirect their behavior. The social worker also observed the parents' inability to adequately care for H.G. in the hospital. The parents' difficulty in meeting H.G.'s basic needs continued. During supervised visits, the parents needed "a lot of redirecting and coaching when handling [H.G.] in regards to her feedings, diaper changes, and overall proper handling . . . ." There were also concerns that H.G.'s clothes were soaked in urine and she was wrapped in a blanket that was covered with feces when she was returned to the foster parents. Thus, there was substantial evidence to support the finding that the parents' struggle to provide care for H.G., even when they were receiving coaching from medical staff or social workers, created a substantial risk of harm to H.G.

The father further argues that the Department failed to establish that the circumstances that led to I.G.'s "dependency had a causal connection to an inference of neglect or failure to protect" H.G. To support this argument, he asserts that he has demonstrated that the mother did not have untreated mental health issues and that he was not minimizing the mother's mental health condition. Since we have concluded that there was substantial evidence that the mother was suffering from severe mental illness and the father minimized the risk that her condition posed to H.G., we reject this argument.

B. Dispositional Findings

The parents contend that the juvenile court erred in removing H.G. from her parents' custody, because the evidence was insufficient to show a substantial risk of harm at the time of the dispositional hearing.

Section 361, subdivision (c)[7] provides in relevant part: "A dependent child shall not be taken from the physical custody of . . . her parents . . . with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following circumstances . . . : [¶] (1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's . . . physical custody."

"Harm to a child cannot be presumed from the mere fact the parent has a mental illness. [Citation.] The question is whether the parent's mental illness and resulting behavior adversely affect the child or jeopardize the child's safety. [Citation.]" (*Kimberly R. v. Superior Court* (2002) 96 Cal.App.4th 1067, 1079.)

"'"'"The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.' [Citation.] The court may consider a parent's past conduct as well as present circumstances."' [Citation.]" (*In re Lana S.* (2012) 207 Cal.App.4th 94, 105.)

When this court reviews a challenge to the sufficiency of the evidence supporting dispositional findings, "'we determine if substantial evidence, contradicted or uncontradicted, supports them . . . "[and] we review the record in the light most favorable to the court's determinations . . . ."'" (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

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[7] We refer to the version of section 361 in effect at the time of the dispositional hearing.

The parents argue that the mother's past mental health episodes were insufficient to justify removal of H.G. They also argue that they loved H.G., consistently visited her, and completed the parenting classes. They further claim that the father was insightful on the mother's mental health issues and would hire a nanny to assist the mother when he was absent from the home. They dispute the evidence that H.G. had returned from visits with urine on her clothes and feces on her blanket, and that she had been returned from a visit in unsuitable clothing for the weather.

Here, the juvenile court did not presume that the mother was unable to care for H.G. due to her mental illness. Though the mother met with Dr. Fisher monthly, he was unable to state that she could adequately parent H.G. She had completed a parenting class, but she continued to struggle to safely care for H.G. during supervised visits. Two months before the dispositional hearing, she arrived at a visit during which she was unable to follow directions and spoke incoherently. She also refused to visit H.G. alone to allow the social worker to assess her parenting skills, continued to deny that she was severely mentally ill, and refused to authorize her therapist to provide information regarding her condition to the social worker. Thus, the record sufficiently established that the mother posed a substantial danger to H.G. due to her inability to parent an infant.

Despite evidence to the contrary, the father continued to believe that the mother could safely parent H.G. He claimed that the physicians who had diagnosed her with bipolar disorder, delusions, or paranoia were "just really guessing . . . ." He thought that if he hired a nanny, this individual "would mostly be doing nothing." Thus, the father minimized the need to protect H.G. while in the parents' custody.

In sum, there was substantial evidence to support the juvenile court's finding that there "would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being" of H.G. if she were returned to the parents' custody. (§ 361, subd. (c)(1).)

The parents next contend that the juvenile court erred when it found: (1) there were no reasonable means by which H.G. could be protected in the home (§ 361, subd. (c)(1)); and (2) the Department made reasonable efforts to avoid removal (§ 361, subd. (d)).

The parents argue that their safety plan, which included hiring a nanny and never leaving the mother alone with H.G., would have eliminated the need to remove H.G. from the home. There is no merit to this argument. The parents had participated in two dependency cases for I.G. The father repeatedly left I.G. alone with the mother despite assurances that he would not do so. The parents had received voluntary services beginning in 2011, family maintenance services in 2013 to 2014, and family maintenance services from June 2016 to August 2017. When I.G. was removed from the home in August 2017, she was anxious, exhibited bizarre behavior, was not toilet-trained at age five, and had a speech delay. The parents began receiving reunification services three months before H.G.'s birth. Despite this assistance, their parenting skills remained inadequate to safely care for either a seven-year-old or an infant at the time of the dispositional hearing. Given the parents' failure to acknowledge the severity of the mother's illness and their failure to acquire adequate parenting skills, hiring a nanny would not have adequately protected H.G.

The parents also argue that the social worker's report did not discuss the reasonable efforts that had been made to prevent or eliminate removal of H.G. from the home. We reject this argument.

The jurisdictional/dispositional report contained a section entitled "Reasonable Efforts," which listed all the actions taken by the Department: reviewing records, interviewing the parents, and submitting various applications and claims. This section does not discuss the efforts made to prevent removing H.G. from the home. However, other portions of the report documented the parents' extensive child welfare history and

the Department's repeated attempts to assist the parents in providing a safe environment for I.G. and H.G. The social worker also considered the alternative of the parents' hiring a nanny, but concluded that this option would not ensure H.G.'s safety.

The parents' reliance on *In re Ashly F.* (2014) 225 Cal.App.4th 803 is misplaced. In that case, the mother physically abused two children. (*Id.* at p. 806.) The father was not aware of the beatings. (*Ibid.*) In its dispositional report, the Los Angeles County Department of Children and Family Services (DCFS) stated, without citing any evidence, that it made "'reasonable efforts'" to prevent the children's removal and there were no "'reasonable means'" to protect them. (*Id.* at p. 808.) The *Ashly F.* court concluded that there was ample evidence of "reasonable means" to protect the children. (*Id.* at p. 810.) The court focused on the mother's remorse and the parents' enrollment in parenting classes, and stated that the DCFS should have considered "unannounced visits . . . , public health nursing services, in-home counseling services and removing Mother from the home. [Citation.]" (*Ibid.*) Thus, the dispositional order was reversed. (*Id.* at p. 811.)

This case is distinguishable from *Ashly F.* Unlike in *Ashly F.*, here, other sections of the Department's reports documented the variety of services that had been provided to the parents for years prior to H.G.'s birth. Despite these services, the parents' conduct placed H.G. at risk of substantial harm. In contrast to the children in *Ashly F.*, H.G. was an infant and unable to communicate. The juvenile court in *Ashly F.* also had the option of removing the mother and placing the children with the father while the parents in this case would not even attend supervised visits separately. Moreover, unlike in *Ashly F.*, the parents failed to acknowledge how their behavior affected H.G.

Assuming any error by the Department in detailing the reasonable efforts to avoid removal from the parents' custody, there was not a "reasonable probability" that the juvenile court would have determined that removal was not warranted, had it inquired into the Department's claim that there were no reasonable means to protect the children.

(*Ashly F.*, *supra*, 225 Cal.App.4th at p. 811.) Here, the mother denied that her mental illness negatively impacted her ability to safely parent H.G., the father continued to claim that the mother's mental illness would not affect H.G., the parents had not completed their case plans, and they continued to struggle with following directions during visits. Thus, the only option to protect H.G. was removal from the parents' custody.

III. Disposition

The order is affirmed

_____
Mihara, J.

WE CONCUR:

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Elia, Acting P. J.

_____
Bamattre-Manoukian, J.